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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,451	07/22/2003	Robert J McCarthy	tk-001	1450
31285	7590	05/12/2004	EXAMINER	
ROBERT J. MCCARTHY 28 HATCH ST EVERETT, MA 02149			BLUM, THEODORE M	
			ART UNIT	PAPER NUMBER
			3662	

DATE MAILED: 05/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/604,451	<b>Applicant(s)</b> MCCARTHY, ROBERT J	
	<b>Examiner</b> Theodore M. Blum	<b>Art Unit</b> 3662	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4, 6, 7, and 9-14, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 4, "enabling automated extensions to established gaming and wagering applications, specifically including conditional, derivative, and combinational bets" is indefinite.

As to claim 6, "including but not limited to" is indefinite.

As to claim 7, "said system and method" is indefinite. Claim 3 is not a method claim.

As to claim 9, "derivative and conditional based wagering" is indefinite.

As to claim 9, there is no antecedent basis for "said assessment results".

As to claim 11, "derivative wager" is indefinite.

As to claim 13, "derivative wagering models" is indefinite.

As to claim 14, there is no antecedent basis for "the live or requested data results".

Claims 10 and 12 depend from an indefinite antecedent claim.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richards et al.

Richards et al teaches the claimed tracking system method and structure including: transceivers (Figures 13 and 14), horse racing (Figure 10), the use of spread spectrum technology (column 3, line 57 to column 4, line 4), betting (column 21, lines 43-67), and tracking an animal located on a racetrack (column 24, line 53 to column 25, line 8, column 32, line 54 to column 33, line 9).

For greater range and less interference, obviously the transceivers of Richards et al can be on towers as claimed.

3. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Granot et al.

Granot et al teaches the claimed tracking system method and structure including: transceivers (501-506, column 5, lines 23-33), horse racing (column 5, lines 18-21 and 59-63, column 6, lines 58-65), the use of spread spectrum technology (column 1, lines 43-63), and tracking (column 1, lines 1-13).

For greater range and less interference, obviously the transceivers of Granot et al can be on towers as claimed.

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4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 9-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Danielson et al.

Danielson et al teaches the claimed tracking system method and structure including: transceivers (column 16, line 16 to column 17, line 28), horse racing (), the use of spread spectrum technology (column 16, line 16 to column 17, line 28), and betting (column 24, line 60 to column 26, line 27).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theodore M. Blum whose telephone number is 703-305-1833. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza can be reached on 703-306-4171. The fax phone numbers for the organization where this application or proceeding is assigned are 703-306-4195 for regular communications and 703-306-4195 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

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*Theodore M. Blum*

Theodore M. Blum  
Primary Examiner  
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